

AMENDATORY SECTION (Amending WSR 98-18-097, filed 9/2/98, effective 10/3/98)

WAC 314-52-080 Novelty advertising. (1) Novelty branded promotional advertising items (~~((shall))~~) which are of nominal value, singly or in the aggregate, may be provided to retailers by industry members. Singly or in the aggregate is per licensed location. Such items include, but (~~((shall))~~) are not (~~((be))~~) limited to(~~((7))~~): Trays, lighters, blotters, post cards, pencils, coasters, menu cards, meal checks, napkins, clocks, ((wearing apparel,)) mugs, glasses, ((knives, lamp shades, or similar items on which the logo, liquor brand name or name of a manufacturer of an alcoholic beverage has been imprinted.

~~((2))~~ No liquor manufacturer, distributor, or importer, or employee thereof, shall provide without charge, directly or indirectly, any novelty advertising items to any retail licensee; nor shall any retail licensee, or employee thereof, accept without charge any liquor novelty advertising items directly or indirectly, from any manufacturer, distributor, or importer, or employee thereof.

~~((3))~~ A manufacturer, distributor, or importer,)) bottle or can openers, corkscrews, matches, printed recipes, shirts, hats, visors, and other similar items. Branded promotional items:

(a) Must be used exclusively by the retailer or its employees in a manner consistent with its license;

(b) Must bear imprinted advertising matter of the industry member only;

(c) May only be provided by industry members to retailers and their employees;

(d) May not be provided by or through retailers or their employees to retail customers.

(2) An industry member is not obligated to provide any branded promotional items, and a retailer may not require an industry member to provide such branded promotional items as a condition for selling any alcohol to the retailer.

(3) Any industry member, retailer, or other person asserting the provision of branded promotional items has resulted or is more likely than not to result in undue influence or an adverse impact on public health and safety, or is otherwise inconsistent with the criteria in subsection (1) of this section, may file a complaint with the board.

Upon receipt of a complaint the board may conduct an investigation as it deems appropriate in the circumstances.

(a) The board may issue an administrative violation notice to the industry member, to the retailer, or both.

(b) The recipient of the administrative violation notice may request a hearing under chapter 34.05 RCW.

(4) An industry member or their employee ((thereof)), may sell, and a retail licensee may purchase, for use, resale, or distribution on the licensed premises any novelty advertising items. The price ((thereof)) shall be not less than the ((manufacturer's, importer's, or distributor's)) industry member's cost of acquisition. In no event shall credit be extended to any retail licensee. The purchase by retail licensees of such items shall be supported by invoices or signed vouchers which shall be preserved for ((two)) three years on the licensed premises and available for immediate inspection by board enforcement officers.

~~((4) A manufacturer, importer, or distributor))~~ (5) An industry member who sells novelty advertising items to retail licensees shall keep on file the original((s)) or ((copies)) copy of all sales slips, invoices, and other memoranda covering all purchases of novelty advertising items ((from)) by the ((supplier or manufacturer of such items)) industry member and shall also keep on file a copy of all invoices, sales slips, or memoranda reflecting the sales to retail licensees or other disbursement of all novelty advertising items. Such records shall be maintained in a manner satisfactory to the board and must be preserved in the office of the ((manufacturer, importer, or distributor)) industry member for a period of at least ((two)) three years after each purchase or sale. Any manufacturer which does not maintain a principal office within the state shall, when requested, furnish the above required records at a designated location within the state for review by the board.